

**Chesapeake Bay Local Assistance Board
Monday, June 20, 2005, 10:00 a.m.
Fredericksburg City Council Chambers
Fredericksburg, Virginia**

Chesapeake Bay Local Assistance Board Members Present

Donald W. Davis, Chair
David L. Bulova
Gale A. Roberts

Walter J. Sheffield, Vice Chair
William E. Duncanson
Michael A. Rodriguez

Chesapeake Bay Local Assistance Board Members Not Present

Sue H. Fitz-Hugh
Beverly Harper

David C. Froggatt

DCR Staff Present

Joseph H. Maroon, Director
C. Scott Crafton, Assistant Director
Joan Salvati, Director, Division of Chesapeake Bay Local Assistance
Roger Chaffe, Office of the Attorney General
Martha Little, Chief of Environmental Planning
Shawn Smith, Principal Environmental Planner
Heather C.A. Mackey, Principal Environmental Planner
Brad Belo, Senior Environmental Planner
Ryan Link, Principal Environmental Planner
Jakob Helmboldt, Senior Environmental Planner
Christine Watlington, Policy and Planning Analyst
Michael R. Fletcher, Director of Development

Local Government Officials Present

City of Hampton
Sally Andrews

James Freas
Terry O'Neill

City of Portsmouth
Stacy Porter

City of Norfolk
Lee Rosenberg
Brian Ballard

Cindy Hall

City of Fredericksburg
Philip Rodenberg

Richmond County
Christopher H. Jett

Others Present

Ellis W. James, Sierra Club, Norfolk
Patricia Kurpiel, Stafford
Joe Lerch, Chesapeake Bay Foundation, Richmond

Call to Order

Mr. Davis called the meeting to order and asked for the roll call. A quorum was declared present.

Mr. Davis introduced Mr. Maroon, Ms. Salvati, Mr. Crafton, and Mr. Chaffe

Ms. Salvati said that she was excited about the new position and thrilled to be working with the staff. She said that her vision is to continue to have the staff provide excellent customer service.

Mr. Crafton said that it had been a pleasure to work with the Board for a number of years. He said that he would continue to work with Ms. Salvati during the transition period.

Consideration of the Minutes

MOTION: Ms. Roberts moved that the minutes of the March 21, 2005 meeting of the Chesapeake Bay Local Assistance Board be approved as submitted by staff.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Bulova moved that the minutes of the April 22, 2005 meeting of the Policy Committee of the Chesapeake Bay Local Assistance Board be approved as submitted.

SECOND: Mr. Davis

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Bulova moved that the minutes of the May 3, 2005 meeting of the Northern Area Review Committee be approved as submitted.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously.

MOTION: Ms. Roberts moved that the minutes of the May 3, 2005 meeting of the Southern Area Review Committee be approved as submitted.

SECOND: Mr. Rodriguez

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Bulova moved that the minutes of the May 3, 2005 meeting of the Policy Committee of the Chesapeake Bay Local Assistance Board be approved as submitted.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's report. He welcomed Ms. Salvati and said that he looked forward to her leadership. He also thanked Mr. Crafton for his leadership and noted that Mr. Crafton is moving to the Director's office to assume other responsibilities.

Mr. Maroon said that the Department would again be in the position of being able to provide grant funding for the Bay program. About \$275,000 will be available to support Bay activities as they relate to Chesapeake Bay tributary strategies.

The funding is aimed at several initiatives including the Bay Act septic system requirements and “on the ground” buffer restoration projects.

Mr. Maroon said that DCR has been working with VIMS and Chesterfield County to develop training relating to perennial streams. One of the presenters will be the professor from North Carolina who helped develop the North Carolina protocol.

Additional training will be taking place with DCR staff. Staff will be cross-trained to learn how to ensure that the various non-point source programs complement each other in a way that will hopefully lead to greater efficiencies.

He noted that later in the agenda, there would be a discussion of the Water Quality Improvement Fund guidelines.

Nutrient Management regulations are being revised. Four public hearings have been held. The public comment period will close on July 1, 2005. The regulations are very important. The Department is looking to improve the way phosphorus and nitrogen are managed with relation to water quality.

Mr. Maroon and Mr. Crafton attended a Bay wide urban summit that was held in Leesburg. Discussions were held to continue dealing with urban practices as they relate to the cleaning of the Chesapeake Bay.

Mr. Maroon noted that Lancaster County has adopted a program that staff believes will be fully consistent. The Town of Whitestone has adopted a similar program.

Mr. Davis thanked Mr. Maroon and welcomed Fredericksburg City Manager Philip Rodenberg who gave greetings from the City.

Mr. Rodenburg welcomed CBLAB to Fredericksburg and thanked the Board and staff for working with the City.

Local Program Reviews – Compliance Evaluation

Town of Vienna

Ms. Little presented the report for the Town of Vienna.

Department staff met with Town staff in October 2004 to outline the compliance evaluation process and review the checklist provided to Town staff as an attachment to the initiation letter. A second meeting was held later that month to discuss the site plan review process and implementation policies with the directors of Planning and Zoning and Public Works. Three site plans were reviewed for completeness and compliance with local program requirements and field investigations were performed on those sites.

Vienna is located west of Washington, DC, and has an urbanized core and suburban residential neighborhoods. Vienna's designated CBPAs include all of the RPA features required by the Regulations and a limited RMA. The Town chose to base its RMA designation on existing environmentally sensitive areas rather than designating all non-RPA areas as Resource Management Areas. Areas designated RMA include the 100-year floodplain, highly erodible soils and/or slopes in excess of 15%, highly permeable soils, non-tidal wetlands not classified as RPA; and other lands identified by the Town to be necessary to protect the quality of state waters. This final category is not defined by the ordinance, but is left to the discretion of the Zoning Administrator. While the Town is facing redevelopment pressure in several areas of town, there are few development applications that require review for their impacts on CBPAs.

Town staff, though limited, appears to be stable, experienced and highly capable. They carefully review each development plan and document its progress through the plan of development process. As a result, there are only two recommendations for compliance. The first requires buffer mitigation with revegetation or vegetative plantings for all permitted encroachments or modifications. The second requires that the Town formalize and document the WQIA submission process for development within CBPAs.

In addition to these two recommendations, several suggestions were made to assist the Town with program implementation. Department staff will be available to assist Town staff with their efforts to address the recommendations and suggestions before the deadline.

At their May meeting, the Northern Area Review Committee recommended that the Board find certain aspects of the Town of Vienna's implementation of their Chesapeake Bay Preservation program not fully compliant with the Act and Regulations and that the Town undertake and complete the two recommendations contained in the staff report no later than May 31, 2006.

Mr. Davis asked if there was a need for the deadline to be a full year out.

Ms. Smith said that the Town wanted time to develop approaches to these two compliance issues to make sure the end result meets their particular needs and further that the time frame is not dissimilar to other locality deadlines.

MOTION: Mr. Bulova moved that the Chesapeake Bay Local Assistance Board find that certain aspects of the Town of Vienna's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and that the Town be required to undertake and complete the two recommendations contained in the staff report no later than May 31, 2006.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
June 20, 2005

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF VIENNA - #52

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in October, 2004 the Department of Conservation and Recreation, Division of Chesapeake Bay Local Assistance conducted a compliance evaluation of the Town of Vienna's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on May 3, 2005 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the Town of Vienna's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the Town of Vienna to undertake and complete the two (2) recommendations contained in the staff report no later than June 30, 2006.

1. For consistency with § 9 VAC 10-20-130 3 of the Regulations, require buffer mitigation and establishment that focuses on revegetation or vegetative plantings for all permitted buffer encroachments or modifications.

2. For consistency with § 9 VAC 10-20-130 6 of the Regulations, formalize and document the WQIA submission process for any proposed land disturbance, development or redevelopment in the RPA and for development in the RMA when required.

BE IT FINALLY RESOLVED that failure by the Town of Vienna to meet the above established compliance date of June 30, 2006 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the Town of Vienna to the compliance provisions as set forth in § 10.1-2103.10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on June 20, 2005.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Richmond County

Ms. Little presented the report for Richmond County. She introduced Mr. Christopher Jett, Planning Director for Richmond County.

On December 8, 2003, the Board conducted a compliance evaluation of Richmond County's adopted Phase I program for consistency with the Act and Regulations. The Board found that the County's program was not fully compliant and required the County to undertake and complete four recommendations noted in the staff report by December 31, 2004.

As of this date, the County has addressed two of the four conditions. It has initiated its septic pump-out notification program and has developed a database for tracking and inspecting BMPs. It is staff's opinion that both of these conditions have been adequately addressed.

The County, however, has not yet started to require submission of water quality impact assessments and because this condition has not been met, the County cannot meet the condition of ensuring that files are complete. It is staff's opinion that a July 15th deadline be established to facilitate the County's movement towards completion of this requirement. Once the WQIA forms have been completed, it is anticipated that the County will easily meet the requirement of maintaining complete files.

Since the Board resolution clearly established a December 31, 2004 deadline for meeting the four recommendations and this deadline has not been met, it is staff's opinion that the County be

found not fully compliant with the Act and Regulations and directs Richmond County to undertake and complete the two recommendations contained in this staff report no later than July 15, 2005.

Mr. Jett thanked the staff for their assistance and for providing the draft WQIA forms. The County plans to have the draft forms complete and begin requiring their completion on July 1, 2005.

MOTION: Mr. Sheffield moved that the Chesapeake Bay Local Assistance Board find that certain aspects of Richmond County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and that Richmond County be directed to undertake and complete the recommendation no later than July 25, 2005.

SECOND: Mr. Bulova

DISCUSSION: Mr. Duncanson noted that he would abstain from voting.

VOTE: Motion carried with Mr. Duncanson abstaining.

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
June 20, 2005**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
RICHMOND COUNTY - #30**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on December 8, 2003, the Chesapeake Bay Local Assistance Board found that certain aspects of Richmond County's Phase I program did not fully comply with the Act and

Regulations and further that the County address the four recommendations in the staff report no later than December 31, 2004; and

WHEREAS in February 2005, the County provided staff with information relating to the County's actions to address the four recommendations and Department staff prepared a staff report; and

WHEREAS on May 3, 2005 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Richmond County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Richmond County to undertake and complete the recommendation no later than July 15, 2005.

1. Beginning immediately or no later than July 15, 2005, the County must begin requiring submission of a WQIA for any proposed land disturbance, development or redevelopment within the Resource Protection Area, and for development in RMAs when required by the Director of Planning.
2. The County should ensure that when they finalize their WQIA forms and begin to require them, WQIAs are included as part of the file for any development activities in the RPA on in the RMA when required by the Director of Planning.

BE IT FINALLY RESOLVED that failure by Richmond County to meet the above established compliance date of July 15, 2005 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject Richmond County to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on June 20, 2005 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

York County

Mr. Belo presented the report for York County.

On March 22, 2004, the Board found that certain aspects of York County's Chesapeake Bay Preservation Act program do not fully comply with the Chesapeake Bay Preservation Act Regulations. The Board required York County to undertake and complete three recommendations included in the Department's staff report no later than March 31, 2005. The County has addressed two of the Board's three recommendations and requested a six-month extension to complete the final recommendation. Mr. Belo noted that he would address recommendation number one at the end of his presentation.

Recommendation number two required the County to document submission of a WQIA for any proposed land disturbance, development or redevelopment within RPAs, and for development in RMAs when required by the Zoning Administrator.

To address this recommendation, York County has implemented a weekly plan review meeting to discuss all submitted projects to, in part, ensure that CBPA performance standards are met and Water Quality Impact Assessments are submitted if required. County staff has developed standard WQIAs for shoreline work, buffer modifications, redevelopment, non-complying use and development waivers and buffer encroachments. It is the Department's opinion that York County has adequately addressed Recommendation number two.

The third recommendation required the County to develop a program to ensure the regular or periodic maintenance of best management practices in order to ensure their continued proper functioning over the long-term.

To address this recommendation, York County requires all BMP Maintenance Agreements to be recorded in the Circuit Court. The Maintenance Agreement allows York County staff to re-inspect BMPs to ensure proper functioning and maintenance. County staff has reviewed and updated related databases and files and has started notifying property owners by letter of re-inspection requirements. It is the Department's opinion that York County has adequately addressed Recommendation number three.

Recommendation number one required the County to amend its subdivision ordinance to ensure consistency with the most recent changes in the Chesapeake Bay Preservation Area Regulations and Sec. 24.1-372 of the County's zoning ordinance.

The County staff is in the process of creating a stand-alone Bay Act ordinance by removing the Environmental Management Area (EMA) Overlay District from the County's zoning ordinance. The only substantial change to the County's Bay Act program will be that the York County Chesapeake Bay Board, comprised of the members of the York County Wetlands Board, will replace the York County Board of Zoning Appeals in reviewing and approving exceptions that can not be handled administratively.

For obvious reasons of efficiency, the County has chosen to defer making revisions to the subdivision ordinance until the York County Board of Supervisors and the Board act on the creation of the stand-alone ordinance. The County is requesting a six-month extension to provide enough time for Department review, York County Board of Supervisors approval, Board approval and then subdivision ordinance revisions as required by Recommendation number one.

The Department believes that York County has made significant progress addressing the Board's recommendations for improving those aspects of its Phase I program that were found not to fully comply with the Chesapeake Bay Preservation Act and Regulations. The Department feels that the County's request for an extension to September 30, 2005 is reasonable and appropriate.

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of York County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and that the County be directed to undertake and complete the recommendation contained in the staff report no later than September 30, 2005.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 20, 2005

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

YORK COUNTY - #3

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on March 22, 2004, the Chesapeake Bay Local Assistance Board found that certain aspects of York County's Phase I program did not fully comply with the Act and Regulations and required the County to address the three recommendations in the staff report no later than March 31, 2005; and

WHEREAS in March of 2005, the County provided staff with information relating to the County's actions to address the three recommendations and Department staff prepared a staff report; and

WHEREAS on May 3, 2005 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of York County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs York County to undertake and complete the one (1) recommendation contained in this staff report no later than September 30, 2005.

1. Amend the County's subdivision ordinance to ensure consistency with the most recent changes in the Chesapeake Bay Preservation Area Regulations and Sec. 24.1-372 of the County's zoning ordinance.

BE IT FINALLY RESOLVED that failure by York County to meet the above established compliance date of September 30, 2005 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject York County to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9VAC10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on June 20, 2005 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Hopewell

Mr. Helmboldt presented the report for the City of Hopewell. He noted that no one was present from the City.

Department staff initiated a compliance evaluation with the first meeting taking place on November 17, 2004. After a number of delays, the evaluation recommenced in March 2005.

As a result of the evaluation staff has a total of ten (10) recommendations:

- Three are related to stormwater management
- Three pertain to development criteria and regulatory relief mechanisms
- Two relate to the City's plan of development process
- And one each for the City's erosion and sediment control and septic pump-out requirements.

At the SARC meeting, Mr. Altman, Hopewell's Director of Community Development, stated that he views this process as an audit of the City's program, and in further discussion with staff indicated that he is very amenable to working with DCR staff to update the City's Bay Act program administration.

As a result of the ten recommendations, staff recommends that the Board find that certain aspects of the City's implementation of its Phase I program do not fully comply with the Act and Regulations.

Staff further recommends that the City of Hopewell undertake and complete the ten (10) recommendations contained in this staff report no later than June 30, 2006.

Mr. Davis asked if the City was in agreement.

Mr. Helmboldt said that after the SARC meeting he and Kelly Ramsey of DCR Division of Soil and Water had discussions with Mr. Altman from the City, who noted that the City sees this as a valuable audit of their program. Mr. Altman requested that Department staff continue to work with and assist the City in addressing the recommendations.

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board find that the implementation of certain aspects of the City of Hopewell's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and that the County be directed to undertake and complete the recommendation contained in the staff report no later than June 30, 2006.

SECOND: Mr. Rodriguez

DISCUSSION: None

REVISED: 8/5/2005 11:14:35 AM

VOTE: Motion carried unanimously.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
June 20, 2005

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
CITY OF HOPEWELL- #13

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in late 2004 – early 2005, the Chesapeake Bay Local Assistance Department conducted a compliance evaluation of the City of Hopewell's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on May 3, 2005 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of the City of Hopewell's Phase I program do not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the City of Hopewell to undertake and complete the ten (10) recommendations contained in this staff report no later than June 30, 2006.

- 1) For consistency with §§ 9 VAC 10-20-80 and 9 VAC 10-20-130 of the Regulations, the City must ensure that their Bay Act program requirements are applied uniformly throughout the City. Exemptions to the requirements for designation of CBPAs are not

allowed under the Regulations, and their exemptions do not appear to have been submitted for review by the Chesapeake Bay Local Assistance Board.

- 2) For consistency with § 9 VAC 10-20-105 of the Regulations, the City must ensure that onsite RPAs are properly delineated through their plan submittal and review process, by revising their submittal forms, and checklists to require complete and accurate delineation and designation of all RPA and RMA features on submitted site plans, including any CBPA features that are present on adjacent properties. To ensure this happens, the City must revise their Site Plan Requirements in Article XVI of the City Code to include this requirement.
- 3) To ensure that the Resource Protection Area remains undisturbed during construction as required under and for consistency with § 9 VAC 10-20-130 3 of the Regulations, the City must require the installation of safety or silt fencing or other visible barriers along the boundary of the RPA as deemed appropriate by City staff on parcels with RPA present.
- 4) For consistency with § 9 VAC 10-20-120 6 of the Regulations, the City must address the erosion and sediment control program deficiencies noted by DCR-DSWC staff through submittal of a Corrective Action Agreement.
- 5) For consistency with § 9 VAC 10-20-120 7 a of the Regulations, the City must implement a five-year pump-out notification for any remaining septic systems that exist within the City's CBPAs.
- 6) For consistency with § 9 VAC 10-20-130 1 e of the Regulations, the City must cease permitting the placement of BMPs in the RPA through an administrative process, and must only allow them after being granted an exception following review and approval through the formal exception process.
- 7) For consistency with §§ 9 VAC 10-20-150 and 9 VAC 10-20-130 4 of the Regulations, the City must provide documentation of any administrative waiver or exception request.
- 8) For consistency with § 9 VAC 10-20-130 6 of the Regulations, the City shall ensure that a WQIA is submitted and reviewed for all land disturbances in the RPA, including shoreline erosion control projects, approved administrative waivers and exceptions and all other permitted uses and development.
- 9) For consistency with § 9 VAC 10-20-120 8, and therefore § 4 VAC 3-20-71, stormwater management facilities must be located, designed and maintained to perform at the target pollutant removal efficiency specified in § 4 VAC 3-20-71, Table 1.
- 10) For consistency with § 9 VAC 10-20-120 8, the City must consistently implement the stormwater runoff criteria of the City's CBPA Overlay District ordinance (Article XV-A.K.1, Article XV-A.K.2.h) and require a stormwater plan to be submitted (Article XV-

A.M.4) that provides the engineering calculations and details the appropriate stormwater quality mitigation.

BE IT FINALLY RESOLVED that failure by the City of Hopewell to meet the above established compliance date of June 30, 2006 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the City of Hopewell to the compliance provisions as set forth in § 10.1-2103.10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on June 20, 2005 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Portsmouth

Mr. Link presented the report for the City of Portsmouth. He introduced Stacy Porter from the City.

Department staff met with the City of Portsmouth's environmental planner, stormwater engineer and other staff on October 15, 2004. At this meeting, City staff provided all of the requested materials from the local checklist, and discussed the City's local Bay Act program, thoroughly answering all of the questions from the Department's *Checklist for Local Program Compliance Evaluation*.

A second meeting was held on November 15, 2004 at the City offices to allow Department staff to discuss the City's site plan review process and implementation policies. Seven of the site plans reviewed on November 15, 2004 were selected for site visits. These site visits were conducted on December 6, 2004.

Several minor issues were identified during the field visits, however, these issues were quickly addressed by City staff following the site visit, with documentation of such action being provided to the Department.

The City Planning Commission has an excellent track record of enforcing the City's ordinance and prohibiting restricted uses and encroachments into the buffer such as developments that increase impervious cover, vegetative clearing and the development of accessory structures. The City Planning Commission approved one exception in 2004. This exception request was for a gazebo that was constructed of pervious materials, with a mulched pathway leading to the structure.

Based on the conversations, site plan reviews and field visits it is clear that the City of Portsmouth staff understands the intent of the Bay Act and Regulations and they know their own program very well. The City appears to have all of the necessary tools in place for compliance with the implementation requirements of the Regulations and has a well planned and established process for the review of proposed development within the City's CBPA. The City's ordinances appear to be in compliance and the staff is well trained and dedicated with a wealth of experience and local knowledge. The Town staff is to be commended for implementing an effective Bay Act program.

Therefore, staff recommends that the City's implementation of its Phase I program be found compliant with the Act and Regulations.

SARC concurred with this recommendation.

Ms. Porter expressed her appreciation for the work of the staff.

Ms. Salvati commended the City for an excellent job and for being proactive with the program. She noted that Portsmouth was the first locality to be found fully compliant on their first time through a compliance evaluation.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board find the City of Portsmouth's Phase I program to be found compliant with §§ 10.1-2109 and 10.1-2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and further that a letter of commendation be issued to the City.

SECOND: Mr. Bulova

DISCUSSION: None

VOTE: Motion carried unanimously.

Consent Agenda

MOTION: Mr. Bulova moved that the Chesapeake Bay Local Assistance Board approve the following consent items as recommended by the respective staff reports:

Town of Irvington, Review of Phase I Conditions
City of Fredericksburg, Review of Phase I Conditions
Town of West Point, Phase I deadline extension request
Town of Ashland, Review of Phase I Conditions

SECOND: Mr. Duncanson

REVISED: 8/5/2005 11:14:35 AM

DISCUSSION: None

VOTE: Motion carried unanimously.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
June 20, 2005

RESOLUTION

LOCAL PROGRAM, PHASE I
TOWN OF IRVINGTON - #41

Determination of Consistency– Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1 (a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS the Town of Irvington adopted an amended Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on December 11, 2003; and

WHEREAS on June 21, 2004 the Chesapeake Bay Local Assistance Board found the Town of Irvington's Phase I program inconsistent with fifteen recommendations for consistency that were to be addressed by the Town and set a compliance date of December 31, 2004; and

WHEREAS the Town Council for the Town of Irvington adopted amendments to the Phase I program on March 10, 2005; and

WHEREAS staff has reviewed the Town of Irvington's revised Phase I program for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS on May 3, 2005 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Irvington's Phase I program consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on June 20, 2005

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 20, 2005

RESOLUTION

**LOCAL PROGRAM, PHASE I
CITY OF FREDERICKSBURG - #05**

Modification – Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS §§ 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1(a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS the City of Fredericksburg adopted a local Phase I program on August 24, 1993; and

WHEREAS on October 5, 1993, the City of Fredericksburg's Phase I program was found consistent by the Chesapeake Bay Local Assistance Board, and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local governments to adopt revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003, and

WHEREAS the City of Fredericksburg adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on March 23, 2004; and

WHEREAS on September 20, 2004 the Board found the City of Fredericksburg's revised Phase I program inconsistent with §10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations; and

WHEREAS the Board further required that the City undertake and complete the 9 recommendations contained in the staff report no later than March 31, 2005; and

WHEREAS the City of Fredericksburg adopted a revised local program to comply with §§ 9 VAC 10-20-60 1 and 2 of the Regulations on February 22, 2005; and

WHEREAS staff reviewed the amendments made to the City of Fredericksburg's revised program for consistency with the Act and Regulations; and

WHEREAS on May 03, 2005 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Fredericksburg's revised Phase I program consistent with §10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on June 20, 2005.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
June 20, 2005

RESOLUTION

REVISED: 8/5/2005 11:14:35 AM

**LOCAL PROGRAM, PHASE I
TOWN OF WEST POINT - #44**

Extension of Compliance Deadline – To June 30, 2005

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1 (a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS § 10.1-2103 10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS the Town of West Point adopted a Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on November 6, 1991, and amended it on October 26, 1992, and February 27, 1995; and

WHEREAS on June 22, 1995 the Town of West Point's Phase I program was found to be consistent by the Chesapeake Bay Local Assistance Board; and

WHEREAS on December 10, 2001, the Chesapeake Bay Local Assistance Board adopted revisions to the Chesapeake Bay Preservation Area Designation and Management Regulations and set March 1, 2003 as the deadline for local government adoption of revisions to their local ordinances; and

WHEREAS on February 18, 2003, the Chesapeake Bay Local Assistance Board extended the compliance deadline from March 1, 2003 to December 31, 2003; and

WHEREAS the Town of West Point adopted a Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on June 28, 2004; and

WHEREAS on September 20, 2004 the Chesapeake Bay Local Assistance Board found the Town's Phase I program to be consistent with one condition and set a compliance deadline of December 31, 2004; and

WHEREAS the Town of West Point adopted revisions to its Phase I program on February 28, 2005, but inadvertently failed to fully address the consistency condition; and

WHEREAS the Town of West Point is requesting a deadline extension from December 31, 2004 to June 30, 2005, and has provided a schedule to adopt additional revisions to fully address the consistency condition; and

WHEREAS on May 3, 2005 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board extends the date for the Town of West Point to comply with § 10.1-2109 of the Act and § 9 VAC 10-20-60 1 and 2 of the Regulations from December 31, 2004 to June 30, 2005.

BE IT FINALLY RESOLVED that failure by the Town of West Point to meet the above established compliance date of June 30, 2005 will result in the local program becoming subject to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on June 20, 2005 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 20, 2005

RESOLUTION

**LOCAL PROGRAM, PHASE I
TOWN OF ASHLAND - #16**

Determination of Consistency– Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate

protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1 (a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS the Town of Ashland adopted an amended Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on March 9, 2004; and

WHEREAS on September 20, 2004 the Chesapeake Bay Local Assistance Board found the Town of Ashland's Phase I program consistent with four recommendations for consistency that were to be addressed by the Town and set a compliance date of June 30, 2005; and

WHEREAS the Town Council for the Town of Ashland adopted amendments to the Phase I program on December 21, 2004; and

WHEREAS staff has reviewed the Town of Ashland's revised Phase I program for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS on May 3, 2005 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the Town of Ashland's Phase I program consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on June 20, 2005 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Local Program Review

City of Norfolk

Mr. Link presented the report for the City of Norfolk. He introduced Cindy Hall, Brian Ballard and Lee Rosenberg from the City.

The City of Norfolk initially adopted its amended Chesapeake Bay Preservation Area Overlay District Ordinance and revised Intensely Developed Area on February 15, 2005.

At that time the City's revised Chesapeake Bay Preservation Overlay District Ordinance addressed many of the required changes, including revisions to definitions and the exceptions process. , However, numerous changes were required in order for the City's Phase I program to be found consistent with the Regulations. These changes were presented to the SARC on May 3, 2005 and they concurred with the staff's recommendation at that time that the City be found inconsistent.

Since the SARC meeting, Department staff met with the City several times to discuss the required changes to the City's ordinance and revised IDA designation. Much progress was made during these meetings and the City was very cooperative in providing additional information to the Department in order to reach agreement on the City's Bay Act Program. The specific items that have been adequately addressed include recommendations 1 through 4 as addressed in the staff report. The City agreed prior to the May 3, 2005 SARC meeting that these issues would be addressed and in fact were addressed by City Council on June 14, 2005.

In addition to these four requirements, upon initial review of the City's revised IDA, staff identified concerns regarding numerous areas proposed for inclusion in the City's IDA. Based on a review of 1994 aerial photography, several of the areas designated by the City as IDA appeared to have intact RPAs including wetlands, and buffer vegetation. Other areas appeared to be comprised of open space and do not meet the Departments historical interpretation of "little of the natural environment".

Staff met with the City of Norfolk on April 7, 2005 to discuss these areas of concern and the City agreed to remove eight of the areas of in question from the IDA designation.

Following the removal of these eight areas, staff was still concerned with the designation of the western half of Little Creek as an IDA, the largest single marsh structure in the City of Norfolk (87 acres), as presented at the May 3, SARC meeting. Based on aerial photography, this area appears to consist of extensive natural environment and RPA features including wetlands, and buffer vegetation. Based on the historical interpretation of IDAs, staff did not feel that the inclusion of this area within the City's IDA met the intent of the Regulations and the precedent that has been set in reviewing IDA designations.

Following the SARC meeting the City officials agreed to remove the Little Creek area from their IDA designation. In addition the City staff has provided in-depth information regarding the implementation of their revised IDA program, which includes the following:

- Norfolk designates IDAs as overlays to the entire CBPA. The definition of IDA under the City's Code states, "Intensely Developed Areas are designated as an overlay on the Chesapeake Bay Preservation Area, as depicted in the Chesapeake Bay Preservation Areas Supplemental Working Map, as periodically amended."
- Norfolk's comprehensive plan states, "...To better reflect the City of Norfolk's development patterns and help achieve the intent of the Bay Act to concentrate development in already developed areas, the City should consider expanding its IDA designation to residential areas." In addition the City's Comprehensive Plan state, "Under the regulations of the Chesapeake Bay Preservation Act the entire shoreline of the City of Norfolk may qualify for Intensely Developed Area (IDA) designation. Expansion of the City's IDA designation should be considered in recognition of the fact that the City of Norfolk, in its entirety, is an area targeted for redevelopment and infill development."
- The adoption of a permit fee program for accessory structures that will require applicants for accessory structures to pay into a special revenue account specifically for the restoration or enhancement of RPA features.
- Under Chapter 45 of the Norfolk City Code all existing trees and shrubs located within the 100-foot buffer are given equal protection regardless of whether they are located within the RPA or IDA overlay. This ordinance is strictly implemented through the City forester.

Based on the above information, the Department feels that the City has adequately addressed all of the required recommendations as presented at the SARC and in the staff report.

In order to ensure that the transition to this new IDA designation goes smoothly and complies with the Act the Department will conduct periodic informal reviews on Norfolk's implementation. This has been discussed with the City and they have agreed to provide periodic information and updates regarding activities within their revised IDA.

Therefore, based on the previously ~~mentioned~~ noted changes, the Department recommends that the City of Norfolk be found consistent with the Act and Regulations per the revised resolution.

Mr. Davis called upon the City of Norfolk for comments.

Mr. Rosenberg said that it had been a long two years. He said that working with the staff, Norfolk has created a program that reflects the urban character of the city but that also puts protections in place to keep the remaining buffer. The program changes were adopted unanimously at a public meeting and by the City Council.

Mr. Davis called on Mr. Ellis W. James, resident of Norfolk, for comments.

Mr. James said that he was a lifelong resident of the Edgewater area of the City. He expressed a number of concerns about the program and the process followed.

Mr. James said that he believed through the reports of the City Manager and supporting letters to the City Council the theme seems to be the same. He said that the problem is that the City is overreaching and that this can be viewed by looking at the original maps.

Mr. James said the south side of the City has lost half of their wetlands since 1947. He said that he hoped the review of the City program would be vigorous and in great detail.

Mr. James expressed concerns about development interests in the Norfolk area. He said that his opinion was that the IDA designation was out of bounds and would cause some serious problems for the City.

Mr. James said that people come to the City of Norfolk because of the location. The Chesapeake Bay is on the City's doorstep. He said that every acre of wetlands lost leads to further destruction of native fish and crab species that bring tourists to the area.

Mr. Davis thanked Mr. James for his comments.

Mr. Bulova asked if staff could recap the process used for determining the IDA.

Mr. Link reviewed a map of 1994 aerial photography and showed the areas of concern.

Mr. Rosenberg said that the City has 140 miles of shoreline. All of this is designated in the CBPA except for the reservoirs.

Mr. Bulova expressed a concern regarding the distinction of hardened shoreline and said that the Board and staff should be careful when making that distinction.

Mr. Ballard said that the City was protecting what is already there. Wetlands are protected under the City Code and a separate review process. Every city in the state is subject to the Tidal Wetlands Act. The tree ordinance applies to all vegetation over 26 inches tall. Violations are prosecuted.

Mr. Maroon said that it would be helpful if staff would review the original IDAs and the proposed areas.

The Board recessed briefly to allow the City of Norfolk to prepare their Powerpoint presentation.

After the recess, Mr. Ballard gave an overview of the presentation given at the May 3, 2005 SARC meeting.

Mr. Ballard noted that the ordinance revisions were adopted on June 14, 2005.

Mr. Ballard noted that the City of Norfolk has unique conditions; the remainder of the Chesapeake Bay watershed is less developed. There are unique regional issues with the Cities of Norfolk, Hampton and surrounding localities.

Mr. Ballard noted that the Chesapeake Bay Preservation Act states in § 10.1-2107 that *In developing and amending criteria, the Board shall consider all factors relevant to the protection of water quality from significant degradation as a result of the use and development of land.*

Mr. Ballard showed a graph indicating the historic build-out of the City. He noted that the peak period of housing development was in the 1950s. Thus, the housing stock is very old.

The Norfolk General Plan states, As of December 31, 1999, existing land use data developed for the City's Virginia Pollution Discharge Elimination System (VPDES) permit indicated that almost 99 percent of the City was developed. The City of Norfolk possesses the highest amount of impervious surface of any locality in Hampton Roads.

IDA Criteria

The Chesapeake Bay Act and the City's Ordinance define IDAs as "areas of existing development and infill sites where little of the natural environment remains and one of the following three conditions as of local adoption date" (3/3/92):

- Impervious surfaces > 50% impervious surface
- Public water and sewer serves area or a constructed stormwater drainage system or both
- Housing Density > 4 units per acre

Requires local governments to examine the pattern of residential, commercial, industrial and institutional within Chesapeake Bay Preservation Areas.

Impervious Bench Mark

Mean Impervious Cover percentage for ¼ Acre Lots within the Chesapeake Bay Watershed = 27.8%

Source: Impervious Cover and Land Use in the Chesapeake Bay Watershed, January 2001, Center for Watershed Protection

Impervious Analysis

- Planimetric GIS data (i.e. actual impervious footprint)-Over 20 years of building permit data
- Excluded all development after 12/1991
- Only considered land area within the RPA 100' Buffer
- Excluded all existing IDA sites

Impervious Results

Subwatershed	Imperviousness
Broad Creek	34%
E. River – East	28%
E. River – West	28%

Lafayette River	28%
Little Creek	28%
Mason Creek	28%
Willoughby Bay	37%

CBPA Statistics

Number of SFR Parcels:

City = 45,531

CBPA = 5,438 or 12% of City SFR

Vacant SFR Parcels in CBPA: 2945% of CBPA SFR or 0.6% of City SFR

CBPA Statistics

New SFR Homes Built since 1992:

City = 2,156 or 5% of Total SFR

CBPA = 305 or 0.07% of Total SFR and 5% of CBPA SFR

Majority of new homes built represent rebuilds/redevelopment

Average SFR Accessed Value –

City - \$121K

CBPA - \$191K

Change in SFR Accessed Value 2000-2004

City = 39%

CBPA = 46%

CBPA Statistics

Total SFR Structures in the CBPA =

Principle – 5,431

Accessory – 2,998

Total SFR Structures in RPA 100' Buffer =

Principle – 3,839 or 71% of Total CBPA

Accessory – 2,141 or 71% of Total CBPA

IDA Impact

Max Annual Demand for Accessory Structures in CBPA = 32 (based on 17 years of permit data)

Average of Accessory Structures City Wide = 370 ft. (n = 22,998)

Footprint Size = 0.274 Acres

City Land Area = 34,168 Acres

New Structures = 0.0008% of City Land Area or 8 ppm

Buffer Land Area = 2,500 Acres

New Structures = 0.01% of Buffer Land Area or 1 pptt

IDA implementation

- Chapter 11.2: Chesapeake Bay Preservation Area Overlay District
 - Performance standards
- Chapter 45: Trees and Other Vegetation

- RPA vegetation protection extended to IDA
- City Code: Accessory Structure Encroachment Permit (proposed)
 - Fee goes into RPA restoration/enhancement account
 - $\geq 150 \text{ ft}^2 = \100 , $< 150 \text{ ft}^2 = \$1 \text{ per ft}^2$, max = \$350
- Chapter 15: Erosion and Sediment Control
 - 2,500 ft^2 threshold extends Citywide

New RPA Locations

(April 7th Meeting)

- 1.St. Mary's Cemetery
- 2.Calvary Cemetery
- 3.Lakewood Park
- 4.Tarrallton Park
- 5.Tarrallton Elementary School
- 6.Forest Lawn Cemetery
- 7.Northside Park
- 8.Merrimack Landing Apartments

Mr. Ballard said that City staff believes that they are consistent with the regulations.

Mr. Bulova said that he was concerned about the method used for determining that there was little or no natural environment left as well as how large a drainage area was used to determine the IDA. Also, he asked why the City did not consider the stream approach rather than the watershed approach.

Mr. Ballard said that the City does not have natural streams. The City has drainage ditches and tidal water bodies. The City looked at the impervious surface within the public buffer. Of that 27% met the requirement within the IDA criteria.

Mr. Davis asked how long it took to put together the presentation and field work.

Mr. Ballard said that it took close to six months. The City tried to be very comprehensive and to make sure that it was done right. The City wants the Board to know they took the matter seriously.

Mr. Ballard said that the City believes it is a win-win situation for the State and the locality. He said that he hoped this would expose the Board to the unique issues of an urban locality.

Mr. Bulova expressed appreciation for the presentation and noted that the Board understands the unique issues the City is facing.

MOTION: Mr. Sheffield moved that the Chesapeake Bay Local Assistance Board find the City of Norfolk's amended Phase I program consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

SECOND: Mr. Duncanson

DISUCCSION: None

VOTE: Motion carried with Mr. Bulova abstaining

MOTION: Mr. Sheffield moved that the Board convene a closed meeting pursuant to §2.2-3711(A) (7) of the Code of Virginia for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice, namely the pending evaluation by the Board of the local program amendments submitted by the City of Hampton.

This closed meeting will be attended only by members of the Board. However, pursuant to § 2.2-3712(F) of the Code, the Board requests counsel, the Director of the Department of Conservation and Recreation (DCR), the Director of the Division of Chesapeake Bay Local Assistance of DCR as well as Mr. Crafton, Ms. Little and Mr. Belo to attend because it believes that their presence will reasonably aid the Board in its consideration of the topic that is the subject of this closed meeting.

SECOND: Mr. Duncanson

VOTE:	<u>Aye</u>	<u>No</u>
	Mr. Bulova	None
	Mr. Davis	
	Mr. Duncanson	
	Ms. Roberts	
	Mr. Rodriguez	
	Mr. Sheffield	

MOTION: Mr. Sheffield moved the following:

WHEREAS, the Board has convened a closed meeting on June 20, 2005 pursuant to and affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712(D) of the Code requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, the Chesapeake Bay Local Assistance Board hereby certifies that, to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by

Virginia law were discussed in the closed meeting to which this certification applies, and only such public business matters as were identified in the motion convening the close meeting were heard, discussed or considered by the Board.

SECOND: Mr. Bulova

VOTE:	<u>Aye</u>	<u>No</u>
	Mr. Bulova	None
	Mr. Davis	
	Mr. Duncanson	
	Ms. Roberts	
	Mr. Rodriguez	
	Mr. Sheffield	

City of Hampton

Mr. Belo presented the report for the City of Hampton. He recognized Sally Andrews, James Freas, and Terry O'Neill from the City of Hampton.

On September 22, 2004, Hampton City Council adopted a new Special Public Interest - Chesapeake Bay Preservation District map that substantially expanded the City's Intensely Developed Areas (IDAs) from the roughly 60 small IDAs approved by the Board a decade ago.

The newly adopted map includes an almost continuous IDA that overlays the vast majority of the City's RPA. The City's IDA expansion eliminates the most significant portions of the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations) by removing all principal structure setback requirements and restrictions to the construction of accessory structures in the RPA. The IDA designation also eliminates all buffer maintenance and replacement requirements in the vast majority of the City's RPA buffers.

IDAs typically represent urban centers, heavily industrial areas, and other densely developed areas, which typically contribute a considerable amount of nonpoint source pollution directly into adjacent waterways due to extensive amounts of impervious surfaces. Research demonstrates that increases in stormwater runoff pollution are directly proportional to increases in impervious surfaces. The degree of pollution entering the Bay and the severely degraded nature of the Chesapeake Bay Preservation Area in older densely developed areas is the primary reason that the Regulations allow the designation of IDAs provided development and redevelopment within IDAs reduces existing stormwater runoff pollutant loadings by 10 percent.

After reviewing the materials provided by the City, the staff recommends that City of Hampton's Phase I program amendments be found inconsistent with § 10.1-2109 of the Act and § 9 VAC10-20-60 1 and 2 of the Regulations. The Department is primarily concerned about the City's

interpretation of the IDA designation criteria and the City's ability to ensure the 10% nonpoint source pollution reduction goal is achieved for all development and redevelopment in IDAs.

IDA designation concerns

The IDA designation only applies to those areas included in the City's CBPA. Therefore, the Department limited its review to only those materials directly related to the land use characteristics found, at the time of original local program adoption, within the City's CBPA – the general boundaries of which are depicted in the map entitled "City of Hampton - Chesapeake Bay Preservation District" in the *Chesapeake Bay Preservation: 2010 Comprehensive Plan Amendment* (adopted by City Council May 22, 2002).

The Regulations §9 VAC 10-20-100 state that "at their option, local governments may designate Intensely Developed Areas as an overlay of Chesapeake Bay Preservation Areas within their jurisdictions."

The Regulations define the Chesapeake Bay Preservation Area as consisting of the Resource Protection Area and a Resource Management Area.

Although the Regulations provide guidelines for the designation, Resource Management Areas vary drastically throughout Tidewater. The City of Hampton has a 100-foot RMA landward of the RPA boundary.

Unlike the RMA, the RPA definition is quite specific. According to the Regulations, the *Resource Protection Areas* (RPA) are comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. RPAs shall include:

1. Tidal wetlands;
2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
3. Tidal shores;
4. Such other lands considered by the local government to meet the provisions of subsection A of this section and to be necessary to protect the quality of state waters; AND
5. A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivision 1 through 4 above, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with § 9 VAC 10-20-110 et seq.

The Department notes that the definition does not associate the boundaries of the RPA with the boundaries of publicly or privately held parcels of land. Rather the RPA definition defines the

limits of an extensive natural landscape feature, composed of several interconnected elements that function as a whole to protect water quality.

The Regulations § 9 VAC 10-20-100.B require local governments wishing to designate IDAs to examine the pattern of residential, commercial, industrial, and institutional development within Chesapeake Bay Preservation Areas. Areas of existing development and infill sites within the Chesapeake Bay Preservation Area, where little of the natural environment remains, may be designated as IDAs provided that at the time of local program adoption the area had more than 50% impervious surface, was served by public sewer and water or a constructed stormwater drainage system, or had a housing density equal to or greater than four dwelling units per acre.

The Department believes that the over-riding test for designating IDAs is the identification of redevelopment areas with "little of the natural environment remaining." Since the Regulations do not describe how "little of the natural environment remaining" is to be determined, the Department reviewed the aerial photography provided by the City for large Resource Protection Areas that appear to be in a relatively natural state (i.e., the natural area appears to be substantially larger than impervious areas in the RPA). During this review, the Department noted large tidal wetland complexes, open fields, and forested upland RPA buffer areas throughout the City's newly designated IDA (including, but not limited to, areas in and adjacent to New Market Creek and its tributaries, the Southwest Branch of Back River and its tributaries, Harris River and its tributaries).

In determining the coverage of the IDAs, the City chose to include only the landward component of the RPA (100-foot buffer), excluding all other components of the RPA. In addition, several of the designated areas were placed adjacent to significant environmentally sensitive areas as discussed above. Staff is concerned that in establishing IDAs adjacent to such environmentally sensitive features, the protection afforded those areas by the RPA requirements would be lost and those sensitive areas could be adversely impacted. Other IDAs that have been approved by the Board were established in areas where virtually no natural environmental remained, so eliminating the protection of the RPA requirements has had no significant impact on water quality.

Given that § 9 VAC 10-20-80 states that RPAs are *inclusive* of not only the tidal wetlands, some nontidal wetlands and tidal shores and the 100-foot buffer, the City's approach of including the buffer and excluding all other components of the RPA is clearly inconsistent with the § 9 VAC 10-20-100. Although the Department attempted to dissuade the City from the approach it was using in its IDA expansion, the City chose to assess and designate its IDA based solely on the conditions of the 100-foot buffer and established IDAs adjacent to sensitive environmental areas. The City's decision to segment the RPA in order to adopt a drastically expanded IDA that covers the vast majority of the landward component of the City's RPAs is unprecedented. Moreover, no other locality has either requested or received approval for the designation of only a part of a RPA as an IDA.

Department staff believes that substantial portions of Hampton's IDA designation cannot be legitimately classified, based on a review of the aerial photography provided by the City, as

including only those Chesapeake Bay Preservation Areas that have little of the natural environment remaining.

Recommendation:

1. The City of Hampton shall revise its IDA designation and map to remove IDA designations from areas or parcels that are adjacent to or include areas with large expanses of natural vegetation. Naturally vegetated areas are those Chesapeake Bay Preservation Areas that predominantly consist of extensive environmentally sensitive areas such as large tidal wetland complexes, open fields, substantially wooded upland RPA buffer areas, and non-forested RPA buffers with modest amounts of impervious surface area.

Ability to achieve 10 percent nonpoint source pollution reduction in IDAs

In addition to concerns related to the identification of areas eligible for IDA designation, the Department is also concerned about the City's ability to achieve the 10 percent nonpoint source pollution reduction required in IDAs. If carefully managed, development and redevelopment within IDAs can help to improve water quality. As these areas redevelop, local governments have the opportunity to reduce stormwater pollutant loadings by requiring treatment of runoff through water quality Best Management Practices (BMPs), the establishment of on-site vegetation, and by limiting the amount of impervious surface on a site. To comply with the Act and Regulations, local governments should develop a water quality improvement strategy for development and redevelopment in IDAs. In order to be effective, the water quality strategy for IDAs should complement other community design and revitalization goals, reflecting the character of proposed redevelopment.

To date, the City has not provided adequate evidence that demonstrates that development and redevelopment in the newly designated IDA will achieve the required 10 percent reduction in nonpoint source pollution. Without this information the Department is unable to confirm that the City will be able to meet the pollution reduction goals and requirements for IDAs.

Recommendation:

2. The City will develop, and submit for the Department's review, a water quality improvement strategy that demonstrates that the City will achieve a 10 percent nonpoint source pollution reduction for all development and redevelopment in the City's IDA. The strategy will include accurate impervious surface calculations and accurate water-quality stormwater management calculations based on an analysis of the percent of impervious cover within the boundaries of the IDA at the time of the City's initial program development.

Summary

To summarize, the Department recommends that the City of Hampton's Phase I program, as amended by the City Council on September 22, 2004, be found inconsistent with Chesapeake Bay Preservation Act and Regulations. This recommendation is based on the inclusion of significant RPAs that cannot be characterized as having "little of the natural environment remaining." In addition, the Department is not convinced that the City has provided adequate evidence that all development and redevelopment will achieve the 10 percent nonpoint source pollution reduction goal required in IDAs. The Department recommends a compliance deadline of September 30, 2005, which will allow Department staff to complete a compliance evaluation of the City's Bay Act program and time to develop a progress report for the October 2005 Southern Area Review Committee explaining the City's success at adopting an IDA map that is consistent with the Bay Act and Regulations.

Mr. Freas and Mr. O'Neil made the following presentation:

City of Hampton CBPA Program Review
CBLAB 6/20/05

IDA Designation

- Appropriate for Hampton's Development Pattern
- Part of a Comprehensive Water Quality Management Program

Development Pattern: Mature City

- Population & Employment: A Mix of Stable & Declining Areas
- Developable Land: Limited (9.6%)
- Building Permit Trends: Declining
- Housing: Aging & Declining in Value
- Fiscal Stress: Increasing

C2K: Sound Land Use

- . . . *promote redevelopment and remove barriers to investment in underutilized urban, suburban, and rural communities . . .*
- . . . *limit impervious cover in undeveloped and moderately developed watersheds and reduce the impact of impervious cover in highly developed watersheds . . .*
- . . . *encourage the concentration of new residential development in areas supported by adequate water resources and infrastructure to minimize impacts on water quality . . .*
- . . . *promote coordination of transportation and land use planning to encourage compact, mixed use development patterns, (and) revitalization in existing communities . . .*

DCR-CBLA Policy

"The central principal of any coastal protection strategy is the identification of those watersheds that are relatively pristine (less than 10% impervious cover) and to attempt to maintain most of them in an undeveloped state. The companion principal is that

watersheds with impervious cover of more than 10 percent should absorb the majority of coastal growth over the coming decades.”

Better Land Use Planning For Coastal Virginia
November 2004

“By redeveloping and reinvesting in historic downtowns and neighborhoods, redeveloping brownfields and greyfields, and encouraging infill development, existing coastal communities can increase population density...that can help accommodate a substantial portion of Virginia’s expected coastal population growth while minimizing the amount of land developed and minimizing related habitat and water quality impacts on Virginia’s coasts.”

Chesapeake Bay Preservation

Amendment to the 2010 Comprehensive Plan (5/22/02)

- “No new Chesapeake Bay Preservation Policies regarding physical constraints to development are recommended with this plan amendment for the following reasons:
 - “The small amount of vacant land in the City that is suitable for new development.”
 - “Physical constraints to development are addressed by existing policies, regulations, and programs.”
 - “Water Quality Improvement is more appropriately addressed through redevelopment due to the extent of existing development in the City.”
- “...evaluate and modify the RPA and IDA overlay zone districts in order to comply with CBPA Regulation amendments effective March 1, 2002.”
- “Explore non-regulatory approaches for protection of the RPA buffer, including expanded public education efforts, the use of conservation easements, and the creation of greenways

Development Strategies

- Conserve & Maintain Existing Neighborhoods & Business Districts
- Promote Infill Development
- Encourage Higher Densities and Mixed Uses
- Promote Reinvestment & Revitalization
- Target Redevelopment

IDA Designation

- Zoning Conformity Promotes Conservation, Maintenance, Investment
- Protects Buffer Vegetation
- Protects Existing Uses & Property Investments
- Promotes Compatible Infill Development
- Promotes Redevelopment
- Promotes Healthy Neighborhoods

Comprehensive WQ Program

- Chesapeake Bay Preservation
- VPDES MS4 Storm Water Permit
- Erosion & Sediment Control
- Sanitary Sewer Overflows (I&I)
- Wetlands Protection
- Public Education & Outreach
- Creation of Greenways
- Dedicated Funding Source
- Mandated & Enforceable
- Not Subject to Development Trends
- Comprehensive: Pollutants & Sources
- Watershed Approach/Watershed Specific
- Annual Reporting
- Evaluation & Adjustment

The Impact of Pervious Surfaces

“An implicit assumption of the impervious cover model is that pervious areas in the urban landscape do not matter much, and have little direct influence on stream quality. Yet urban pervious areas are highly disturbed, and possess few of the qualities associated with similar pervious cover types situated in non-urban areas. For example, it has recently been estimated that high input turf can comprise up to half the total pervious area in suburban areas (Schueler, 1995a). These lawns receive high inputs of fertilizers, pesticides and irrigation, and their surface soils are highly compacted.”

Source: Center for Watershed Protection

IDA Statistics

- IDA covers 1,573 acres out of 8,099 acres in the entire RPA.
- 5,274 lots intersected by the IDA.
- 5,636 non-conforming buildings in the IDA.
 - These include homes, sheds, garages, etc.
- Of the 8,625 parcels intersected by the RPA, 5,150 (60%) are non-conforming because of existing buildings located within the 100’ buffer.

*Water Quality Requirements in the
IDA District*

- All development occurring within the IDA must meet the zoning requirements of Article X SPI-CBPD (17.3-60).
- These performance criteria include provisions to minimize impervious surfaces, protect indigenous vegetation, meet storm water and erosion & sediment requirements, and prevent the alteration of wetlands.
- Development in the IDA “shall retain and establish vegetation in the buffer area to the extent practicable.”
- The IDA is defined in the ordinance as occurring on the landward component of the RPA and can therefore, by definition, not include tidal wetlands.

*Commercial, Industrial, and Multi-Family Projects in the CBPD must conform with the
Site Plan Ordinance.*

- Minimize impervious cover.
- Provide and maintain green areas covering at least 10% of the land area through a landscape plan. The establishment of landscaping is bonded. (Citywide Requirement)
- Trees 6” in diameter and greater must be saved when possible.
- Areas shown as undisturbed or as a buffer must be protected from disturbance.
- All parking areas with 30+ spaces must dedicate 7% of the interior to green space. There must be 1 tree per every 10 spaces.
- Green Areas must be on soils capable of supporting vegetation that allow natural percolation, vegetated with natural vegetation, turf, or mulch beds, and may not be used as material storage space.

All Subdivisions of Land in the CBPD must conform with the Subdivision Ordinance

- Existing trees must be saved where reasonable. Where trees are removed or are not already present in open space areas, 4 trees must be planted +1 for each additional 2000 sq. ft. over 8000 sq. ft. of open space.
- Same protections of buffer areas as in the Site Plan Regulations.

Hampton’s Storm Water Management Program

- Dedicated funding source through storm water fees.
- Citywide, new development must exhibit no net increase in storm water run-off, redevelopment must exhibit a 10% decrease, both through the use of BMPs.
- BMPs are tracked, inspected, and maintained on an annual basis.
- There is an active program for detecting and eliminating illicit connections.
- Street Sweeping occurs on 715 miles of street a month, collecting an average of 294 tons of debris each month.
- Storm drains and ditches are cleaned as needed, removing 2,438 tons of debris in 2004.

Clean Water Education Programs

- The City works closely with the HRPDC on educational programs targeting a variety of water quality affecting activities including:
 - Lawn Care
 - Pet Waste
 - Sediment Runoff Control & others
- Environmental education outreach to schools.
- Volunteer Waterway Cleanups.
- Clean City Commission focuses on Litter Prevention and City Greening. Conducts tree planting.
- Bay friendly landscaping workshops.

IDA Designation

- Appropriate for Hampton's Development Pattern
- Part of a Comprehensive Water Quality Management Program

Mr. Maroon said that it was his understanding ~~was~~ that DCR was looking at the entire area for consideration while the City has taken narrow bands and are looking specifically at those areas.

Mr. Belo said that these examples were what caused major concern. He noted that the City of Hampton is intensely developed in many areas. He said that the City could expand the existing IDAs, but that staff felt the examples given were not consistent.

Mr. Belo said staff was also concerned with the City's ability to achieve a 10% nonpoint source pollution reduction.

Mr. Bulova asked why, given that Hampton has been implementing the Chesapeake Bay ordinance for some time, the City was interested in moving forward with the expansion of the IDAs now.

Mr. O'Neill said that it was incumbent upon the locality to take the step of adopting particular elements prior to Board review. City staff gave the proposal to the City Council who adopted the change right away. The Council intended to clear up any uncertainty that property owners would face.

Mr. Bulova said that it appeared that the bulk of the issues dealt with ~~appeared to be~~ would be decks and other accessory structures. He said that the IDA expansion is a very broad approach to deal with what could be a small issue.

Mr. Davis asked Mr. O'Neill to address the two recommendations that are of concern to the City.

Mr. O'Neill said that the City has not been given clear guidance from Department staff as to the issues and concerns. He said that it appeared that some of the considerations given to Norfolk were not presented to Hampton.

Mr. Davis said that the Board believes the City has the appropriate guidance. He suggested that the Board find the City inconsistent and establish a September date for the City to bring the program into compliance.

Mr. O'Neill said the City would put forth the effort to make that work.

Mr. Sheffield said the presentation was helpful. He echoed staff concern about not reaching the 10% nonpoint reduction, stating that the plan to manage stormwater appears too imprecise.

Mr. O'Neill said that the City would work with the Board and staff to develop a greater level of comfort with the IDAs adopted by the City.

Mr. Davis noted that the item would not come back before the Board until December. He said that would allow time for the concerns to be resolved.

Mr. Maroon said he noted a willingness on the part of the City to work with DCR staff and that DCR staff would continue to work towards a resolution.

Mr. Crafton said that the ongoing compliance evaluation may address some of the concerns.

Mr. Sheffield said that he did not believe the City Council had received the appropriate message. He expressed his disappointment in their actions.

MOTION: Mr. Sheffield moved that the Chesapeake Bay Local Assistance Board find the City of Hampton's Phase I program inconsistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 1 and 2 of the Regulations and further that the City of Hampton be required to amend its Phase I program to address the two (2) recommendations for consistency, outlined in the staff report, no later than September 30, 2005.

SECOND: Ms. Roberts

DISCUSSION: Mr. Davis noted that the Hampton Roads PDC would meet on Monday June 27, 2005.

Mr. Bulova said that the Board should make sure actions are carefully documented.

Mr. Davis noted that the Board would meet prior to September 30, 2005 and asked that an update be provided at that time.

VOTE: Motion carried unanimously.

Review of Board Sponsored Activities

Public Participation Regulations

Mr. Maroon referenced a handout provided to members concerning Board Amendments to the Public Participation procedures. A copy of that handout is available from DCR.

He noted that in March, the Board moved to direct staff to prepare exempt regulation amendments to the Board's public participation guidelines for the purpose of:

- 1) The need to reflect the merger of CBLAB into DCR, and
- 2) Trying to conform language to other DCR Boards.

Motion to finalize bringing the Regulatory Public Participation Procedures Regulations up to date:

The Board adopts and authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to publish the final regulatory amendments necessary to bring the Board's Regulatory Public Participation Procedures Regulations, including any attendant forms, into conformance with changes made to the *Code of Virginia* and any other non-discretionary changes to conform with the Virginia Acts of Assembly or with federal law and regulations enacted since the last regulatory amendment.

This authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Registrar of Regulations for the final regulatory action publication.

The Board requests that the Director or the Regulatory Coordinator report the Board on these actions at the next Board meeting.

Motion made by: William E. Duncanson

Motion seconded by: David L. Bulova

Action: Motion carried unanimously

Update from Policy Committee

Ms. Salvati gave the update from the Policy Committee meetings on April 22 and May 3.

At the April 22 meeting the committee discussed the regulatory review process and noted interest in moving that process along.

The policy committee has discussed amending the guidance documents to consider stream and wetland restoration programs as water dependent activities.

The committee has also discussed non-water dependent components at marinas. There is concern for small marinas and the difficulty in expanding with the need for parking areas, development of a restaurant, etc.

There is currently no definition of perennial flow in the regulations. Staff had been asked to compile research in that regard, which was presented to the Policy Committee at their May 3, 2005 meeting.

At the May policy committee meeting, staff presented a series of five policy papers on the issues discussed. The committee has determined that these are important topics and are worthy of future discussion and action.

Mr. Davis said that both meetings were very productive.

A July 25th date was set for the next meeting of the Policy Committee.

New Business

Water Quality Improvement Guidelines

Mr. Maroon referenced a handout in member packets regarding the Water Quality Improvement Guidelines.

The Water Quality Improvement Fund establishes guidelines for how the fund will be utilized. The purpose of the 1997 Virginia Water Quality Improvement Act is to restore and improve the quality of state waters and to protect them from impairment and destruction for the benefit of current and future citizens of the Commonwealth.

While the responsibility for stormwater management regulations has been transferred to the Soil and Water Conservation Board, legislation requires that the Board of Conservation and Recreation, the Chesapeake Bay Local Assistance Board, and the Soil and Water Conservation Board be consulted on revisions to the guidelines.

Mr. Maroon noted that the public comment period continues through July 29, 2005. He referenced a copy of the notice of public comment. A copy of the handout provided is available from DCR.

The Secretary of Natural Resources issues guidelines on behalf of the Department of Environmental Quality and the Department of Conservation and Recreation.

Mr. Maroon noted that the General Assembly has focused on agriculture with regards to making significant improvements in the Chesapeake Bay.

Public Comment

Joe Lerch, Chesapeake Bay Foundation expressed a concern about IDA designations. He said that he believed Mr. Bulova's question was very pertinent regarding what was prompting the designation.

Mr. Lerch said that this question needs to be considered with respect to the original intent of the Chesapeake Bay Preservation Act. He said that smart growth and a 100-foot wide buffer are not mutually exclusive. He said that the question is the appropriate usage for the approval of the 100-foot buffer.

Mr. Lerch said that he would be at the Policy Committee meeting and that he looked forward to further discussion.

Mr. Crafton said that with regard to the Cities of Hampton and Norfolk, the IDA designation and smart growth, that staff has realized the need to be more flexible in urban areas. However, he said that without regional cooperation, the Board had to be careful about accepting the trade off of easier development within urbanized areas vs. greater limitations on sprawl in the more suburban and rural localities protection.

The next meeting of the Board will be September 19, 2005. The location will be determined.

There being no further business, Ms. Roberts moved to adjourn. Mr. Bulova seconded.

Respectfully submitted,

Donald W. Davis
Chairman

Joseph H. Maroon
Director